

STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING

Department of Health Services v.

Patricia Phelan, L.P.N.

License No. 023922

93 Robins Street

Waterbury CT 06708

CASE PETITION NO. 920930-11-022

MEMORANDUM OF DECISION

INTRODUCTION

The Board of Examiners for Nursing (hereinafter the "Board") was presented by the Department of Health Services (hereinafter the "Department") with a Statement of Charges and a Motion for Summary Suspension dated January 6, 1993.

The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Patricia Phelan (hereinafter the "Respondent").

The Motion for Summary Suspension alleged that the continued nursing practice of the Respondent represented a clear and immediate danger to the public health and safety. (Department Exhibit 1)

The Board found that there was a clear and immediate danger based upon the evidence presented in the Motion for Summary Suspension.

The Board ordered the Summary Suspension of the Respondent's nursing license, and issued a Notice of Hearing scheduling a hearing for February 3, 1993. (Department Exhibit 1) The hearing took place on February 3, 1993 in Room 112, National Guard Armory, Maxim Road, Hartford, Connecticut.

Each member of the Board involved in this decision attests that he/she was present at the hearing or has reviewed the record, and that this decision is based entirely on the record and their specialized professional knowledge in evaluating the evidence.

FACTS

Based on the testimony given and the exhibits offered into evidence, the Board made the following findings of fact:

1. Patricia Phelan, hereinafter referred to as the Respondent, was issued Licensed Practical Nurse License Number 023922 on May 1, 1991 and was at all times referenced in the Statement of Charges the holder of said license. (Department Exhibit 1)
2. The Respondent was aware of the time and location of the hearing. Department Exhibit 1 indicates that the Summary Suspension Order, Notice of Hearing, and Statement of Charges were served on the Respondent by Deputy Sheriff.
3. The Respondent was present at the hearing but was not represented by counsel. (Hearing Transcript, February 3, 1993, p. 4)
4. The Respondent verbally answered the Statement of Charges. (Hearing Transcript, February 3, 1993, pp. 8-12)

5. That from June 2, 1992 to July 25, 1992 the Respondent was employed as a licensed practical nurse at Wolcott View Manor, Wolcott, Connecticut. (Department Exhibit 1) (Hearing Transcript, February 3, 1993, pp. 13, 19)
6. That on numerous occasions during July 1992, while employed as a licensed practical nurse at Wolcott View Manor, the Respondent diverted for her own use the controlled substance Darvocet-N 100. (Department Exhibit 1) (Hearing Transcript, February 3, 1993, p. 9)
7. That the Respondent completed controlled substance administration records by indicating that Darvocet-N 100 which she diverted to her own use had been administered to patients. (Department Exhibit 1)
8. That the Respondent, while employed as a licensed practical nurse at Wolcott View Manor, fraudulently signed the names of other nurses to controlled substance administration records thereby indicating that Darvocet-N 100 which she diverted to her own use had been administered to patients. (Department Exhibit 1)
9. That from September 4, 1992 through November 5, 1992 the Respondent was employed as a licensed practical nurse at Cheshire Convalescent Center, Cheshire, Connecticut. (Hearing Transcript, February 3, 1993, pp. 10, 22-26) (Department Exhibit 1)
10. That while employed as a licensed practical nurse at Cheshire Convalescent Center during October 1992, the Respondent diverted

for her own use the controlled substances Darvocet, Valium, and Percocet. (Department Exhibit 1) (Hearing Transcript, February 3, 1993, pp. 10, 22-26)

11. That the Respondent, while employed as a licensed practical nurse at Cheshire Convalescent Center, falsely completed controlled substance administration records and fraudulently signed the name of another nurse to controlled substance administration records indicating that controlled substances which she diverted to her own use had been administered to patients. (Department Exhibit 1) (Hearing Transcript, February 3, 1993, pp. 22-23)
12. That from November 16, 1992 to January 4, 1993 the Respondent was employed as a licensed practical nurse at Waterbury Convalescent Home, Waterbury, Connecticut. (Hearing Transcript, February 3, 1993, p. 29)
13. That while employed as a licensed practical nurse at Waterbury Convalescent Home the Respondent diverted for her own use the controlled substances Darvocet and Ativan. (Department Exhibit 1) (Hearing Transcript, February 3, 1993, pp. 11, 39)
14. That the Respondent, while employed as a licensed practical nurse at Waterbury Convalescent Home, falsely completed controlled substance administration records indicating that controlled substances Darvocet and Ativan, which she diverted to her own use, had been administered to patients. (Department Exhibit 1)

15. That the Respondent abused or utilized to excess the controlled substances which she diverted from Wolcott View Manor, Cheshire Convalescent Center and Waterbury Convalescent Home. (Department Exhibit 1) (Hearing Transcript, February 3, 1993, pp. 9-11)
16. The Respondent did not divert the controlled substance Percocet while employed as a licensed practical nurse at Waterbury Convalescent Home. (Hearing Transcript, February 3, 1993, p. 39)
17. That the Respondent has not sought nor engaged in therapy or treatment for substance abuse. (Hearing Transcript, February 3, 1993, p. 55) (Department Exhibit 1)

DISCUSSION AND CONCLUSIONS

In consideration of the above Findings of Fact, the following conclusions are rendered:

Patricia Phelan held a valid licensed practical nurse license in the State of Connecticut at all times referenced in the Statement of Charges.

The Summary Suspension Order, Notice of Hearing and Statement of Charges sufficiently provided information as mandated by the General Statutes of Connecticut Sections 4-177, 4-182 and 19a-17.

The hearing was held in accordance with Chapters 54 and 368a of the General Statutes of Connecticut as well as 19-2a-1 through 19-2a-30 of the Regulations of Connecticut State Agencies. The Notice of Hearing, Statement of Charges and the hearing process provided the Respondent

with the opportunity to demonstrate compliance with all lawful requirements for the retention of her license as required by the General Statutes of Connecticut Section 4-182(c).

The FIRST COUNT PARAGRAPH 3 of the Statement of Charges alleges that the Respondent, while working as a licensed practical nurse at Wolcott View Manor, Wolcott, Connecticut during and subsequent to July 1992, "a. diverted Darvocet...b. abused or utilized to excess said medications...c. failed to completely or properly or accurately make documentations in the medical or hospital records...d. falsified one or more Controlled Substance Receipt Records."

The Respondent admits these charges. (Answer: Hearing Transcript, February 3, 1993, p. 9)

The General Statutes of Connecticut Section 20-99(b) prohibits conduct which fails to conform to the accepted standards of the nursing profession, which includes "... (2) illegal conduct, incompetence or negligence in carrying out usual nursing functions... (5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals; (6) fraud or material deception in the course of professional services or activities...."

Based on the Respondent's admission and FACTS 5-8 and 15 the Board concludes that the Respondent's conduct as specified in the First Count Paragraph 3 is proven and that said conduct violates the General Statutes of Connecticut Sections 20-99(b)(2)(5) and (6). Therefore, the Respondent is subject to disciplinary action pursuant to the General Statutes of Connecticut.

The SECOND COUNT PARAGRAPH 3 of the Statement of Charges alleges that the Respondent, while working as a licensed practical nurse at Cheshire Convalescent Center, Cheshire, Connecticut during and subsequent to October 1992, "a. diverted Darvocet, and/or Valium, and/or Percocet...b. abused or utilized to excess one or more of said medications...c. failed to completely or properly or accurately make documentations in the medical or hospital records...d. falsified one or more Controlled Substance Receipt Records."

The Respondent admits these charges with the exception that she denies diverting Percocet. (Answer: Hearing Transcript February 3, 1993, pp. 10-11)

The General Statutes of Connecticut Section 20-99(b) prohibits conduct which fails to conform to the accepted standards of the nursing profession, which includes "... (2) illegal conduct, incompetence or negligence in carrying out usual nursing functions... (5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals; (6) fraud or material deception in the course of professional services or activities...."

Based on the Respondent's admission and FACTS 9-11 and 15 the Board concludes that the Respondent's conduct as specified in the Second Count Paragraph 3 is proven and that said conduct violates the General Statutes of Connecticut Section 20-99(b)(2)(5) and (6). Therefore, the Respondent is subject to disciplinary action pursuant to the General Statutes of Connecticut.

The THIRD COUNT PARAGRAPH 3 of the Statement of Charges alleges that the Respondent, while working as a licensed practical nurse at Waterbury Convalescent Home, Waterbury, Connecticut on and subsequent to November 16, 1992, "a. diverted Darvocet, and/or Ativan, and/or Percocet...b. abused or utilized to excess one or more of said medications...c. failed to completely or properly or accurately make documentations in the medical or hospital records...d. falsified one or more Controlled Substance Receipt Records."

The Respondent admits these charges with the exception that she denies diverting Ativan and Percocet. (Answer: Hearing Transcript, February 3, 1993, pp. 11-12)

Based on FACT 16 the Board concludes the Respondent did not divert the controlled substance Percocet while employed at Waterbury Convalescent Home, therefore, the charge that the Respondent diverted Percocet from Waterbury Convalescent Home is dismissed.

The General Statutes of Connecticut Section 20-99(b) prohibits conduct which fails to conform to the accepted standards of the nursing profession, which includes "... (2) illegal conduct, incompetence or negligence in carrying out usual nursing functions... (5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals; (6) fraud or material deception in the course of professional services or activities...."

Based on the Respondent's admission and FACTS 12-15 the Board concludes that the Respondent's conduct as specified in the Third Count Paragraph 3, with the exception of diverting Percocet, is proven

and that said conduct violates the General Statutes of Connecticut Section 20-99(b)(2)(5) and (6). Therefore, the Respondent is subject to disciplinary action pursuant to the General Statutes of Connecticut.

ORDER

Pursuant to its authority under the General Statutes of Connecticut Sections 19a-17 and 20-99, the Board of Examiners for Nursing hereby orders:

1. That for the First Count, the licensed practical nurse license of the Respondent be revoked.
2. That for the Second Count, the licensed practical nurse license of the Respondent be revoked.
3. That for the Third Count, the licensed practical nurse license of the Respondent be revoked.
4. That the date of revocation shall become effective on May 15, 1993.
5. That at any future time should the Respondent apply for reinstatement of her licensed practical nurse license in Connecticut, she must present evidence that she has been alcohol and drug free; that she has engaged in counseling and therapy for substance abuse; and that she has actively participated in a 12-Step structured recovery program.

The Board of Examiners for Nursing finds the misconduct regarding Count One, Count Two and Count Three is severable and each specific offense warrants the disciplinary action imposed.

The Board of Examiners for Nursing informs the Respondent, Patricia Phelan, and the Department of Health Services of the State of Connecticut of this decision.

Dated at Hartford, Connecticut, this 13th day of May, 1993.

BOARD OF EXAMINERS FOR NURSING

By Janice Thibodeau

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